

**Introduced by Senator Alpert**

February 20, 2004

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An act to amend Sections 10102 and 10103 of, and to add Chapter 12 (commencing with Section 10109) to Part 1 of Division 2 of, the Insurance Code, relating to homeowners' insurance.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1855, as introduced, Alpert. Homeowners' insurance: liability limits: disclosure.

Existing law prohibits an insurer from issuing or initially renewing a policy of residential property insurance unless the insurer provides to the applicant or policyholder a disclosure statement containing specified information. Existing law requires the insurer, following the issuance or initial renewal of the policy, to provide the disclosure statement to the insured every other year.

This bill would require that this disclosure statement include a cost comparison of each of the different categories of coverage offered by that insurer. It would require that the cost comparison state the premium that would be charged to the insured for each category of coverage if the insured were to opt for that category of coverage.

Existing law generally regulates homeowners' insurance.

This bill would allow a policyholder under a homeowners' insurance policy, within 30 days of the effective date of the policy, or any renewal thereof, to increase or decrease the limits of liability with respect to any residence covered under the policy based upon reasonable and supportable estimates of value or replacement cost.

Existing law prohibits a homeowners' policy from being issued or renewed unless it indicates on the declarations page, or on a separate

disclosure form, specified information, including the limits of liability for the structure.

This bill would require that the declarations page or disclosure form provide an explanation of the basis for the determination of these limits, and advise the policyholder that he or she may increase or decrease the limits as described above. The bill would require that this information also be provided in writing to the insured whenever the limits of liability for the structure are changed. The bill would provide that an insurer that fails to provide this notice is responsible for the accuracy of the replacement cost of the structure indicated in the limits of liability, and shall be liable for the full replacement cost of the structure in the event of a loss that exceeds the limits established by the insurer.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 10102 of the Insurance Code is  
2 amended to read:  
3 10102. (a) The disclosure required by Section 10101 shall be  
4 in no less than 10-point type face and shall be provided prior to,  
5 or concurrent with, the application for or initial renewal of a policy  
6 of residential property insurance. In the event that an application  
7 is made by telephone, an insurer that mails a copy of the disclosure  
8 within three business days shall be in compliance with this section.  
9 For policies issued on or after July 1, 1993, at the time of the  
10 original application, the agent or insurer shall obtain the  
11 applicant's signature acknowledging receipt of the disclosure form  
12 within 60 days of the date of the application. When the insurer or  
13 agent establishes delivery of the disclosure form by obtaining the  
14 signature of the applicant or insured, or when an insurer or agent  
15 provides the applicant with the disclosure form and the applicant  
16 does not return a signed acknowledgment of receipt within 60 days  
17 of the date it was provided, there shall be a conclusive presumption  
18 that the insurer or agent has complied with the disclosure  
19 requirement of this chapter. The insurer or agent shall have the  
20 burden of demonstrating in accordance with California Rules of  
21 Evidence that the disclosure was provided to the applicant or  
22 insured. A signature shall not be required at the time of renewal.



1 If the disclosure is mailed to the named insured or applicant, it  
2 shall be mailed to the mailing address shown on the policy of  
3 residential property insurance or to the address requested by the  
4 applicant. First-class mail shall be deemed adequate for proof of  
5 mailing. The insurer shall have the burden of demonstrating in  
6 accordance with California Rules of Evidence that the disclosure  
7 was mailed to the applicant or insured.

8 The disclosure shall contain the following language:

9  
10 CALIFORNIA RESIDENTIAL PROPERTY INSURANCE  
11 DISCLOSURE  
12

13 This disclosure is required by California law (Section 10102 of  
14 the Insurance Code). It describes the principal forms of insurance  
15 coverage in California for residential dwellings. It also identifies  
16 the form of dwelling coverage you have purchased or selected.

17 This disclosure form contains only a general description of  
18 coverages and is not part of your residential property insurance  
19 policy. Only the specific provisions of your policy will determine  
20 whether a particular loss is covered and, if so, the amount payable.  
21 Regardless of which type of coverage you purchase, your policy  
22 may exclude or limit certain risks.

23 READ YOUR POLICY CAREFULLY. If you do not  
24 understand any part of it or have questions about what it covers,  
25 contact your insurance agent or company. You may also call the  
26 California Department of Insurance consumer information line at  
27 (\_\_\_\_).

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NOTE TO PRINTING OFFICE: INSERT CAMERA-READY  
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for Forms of Coverage for Dwellings disclosure form

as printed in Ch. 11 on Pages 79 & 80, in Vol. 1 of the 1993  
Statutes.



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1 (b) The agent or insurer shall indicate on the disclosure form  
2 which category of coverage the applicant or insured has selected  
3 or purchased.

4 (c) The disclosure statement may contain additional provisions  
5 not in conflict with or in derogation of the foregoing.

6 (d) Following the issuance or initial renewal of the policy of  
7 residential property insurance, the insurer shall provide the  
8 disclosure statement to the insured on an every-other-year basis at  
9 the time of renewal. The disclosure required by this section may  
10 be transmitted with the material required by Section 10086.1.

11 (e) No policy of residential property insurance may be initially  
12 issued on and after January 1, 1993, as guaranteed replacement  
13 cost coverage if it contains any maximum limitation of coverage  
14 based on any set dollar limits, percentage amounts, construction  
15 cost limits, indexing, or any other preset maximum limitation for  
16 covered damage to the insured dwelling. The limitations referred  
17 to in this section are solely applicable to dwelling structure  
18 coverages. Endorsements covering additional risks to the insurer's  
19 dwelling structure coverage may have internal limits as long as  
20 those endorsements are not called guaranteed replacement cost  
21 coverage.

22 (f) On and after July 1, 1993, no policy of residential property  
23 insurance may be renewed as guaranteed replacement cost  
24 coverage if it contains any maximum limitation of coverage based  
25 on any set dollar limits, percentage amounts, construction cost  
26 limits, indexing, or any other preset maximum limitation for  
27 covered damage to the insured dwelling. The limitations referred  
28 to in this section are solely applicable to dwelling structure  
29 coverages. Endorsements covering additional risks to the insurer's  
30 dwelling structure coverage may have internal limits as long as  
31 those endorsements are not called guaranteed replacement cost  
32 coverage.

33 (g) Coverage provided for building code upgrades by a policy  
34 of residential property insurance shall be applicable to building  
35 codes, ordinances, standards, or laws only to the extent that those  
36 codes, ordinances, standards, or laws do not impose stricter  
37 standards on the property on the basis of the level of insurance  
38 coverage applicable to the property.

39 (h) The disclosure required by Section 10101 shall also be  
40 provided to the mortgagor in the event that a policy is forced

placed by an insurer at the request of a mortgagee. In such cases, neither the insurer nor the mortgagee shall be required to obtain a signature from the mortgagor. No disclosure shall be required to be provided with respect to blanket policies issued to a mortgagee, and designed to provide interim coverage for losses occurring prior to the mortgagee obtaining knowledge of the lapse of the policy and prior to placement of a policy on behalf of the mortgagor.

(i) On and after July 1, 1994, insurers shall add to the disclosure, in no less than 10-point type the following statement:

This disclosure form does not explain the types of contents coverage (furniture, clothing, etc.) provided by your policy. Some policies do not replace contents with new items, but instead, only pay for the current market value of an item. If you have any questions, contact your insurer or agent.

(j) *On and after January 1, 2005, the disclosure shall also include a cost comparison of each of the different categories of coverage offered by that insurer. The cost comparison shall state the premium that would be charged to the insurer for each category of coverage if the insured were to opt for that category of coverage.*

SEC. 2. Section 10103 of the Insurance Code is amended to read:

10103. (a) No policy of residential property insurance may be issued or renewed in this state unless it indicates on the declarations page of the policy or, if space does not permit, on a separate disclosure form attached to the declarations page:

(1) *Limits of liability for the structure, and an explanation of the basis for the determination of these limits. The declarations page or disclosure form shall advise the policyholder that he or she may increase or decrease the limits of liability for the structure within 30 calendar days of the effective date of the policy, or any subsequent renewal thereof, based upon reasonable and supportable estimates of value or replacement cost. This information shall also be provided in writing to the insured whenever the limits of liability for the structure are changed.*

(2) Limits of liability for personal property.

(3) Deductibles.

(4) Whether the policy provides coverage for the increased costs of repairing or replacing damage to the insured dwelling caused by a covered loss because of building ordinances or laws

1 regulating the repair. In the event that no coverage is provided for  
2 repairs that result from new building ordinances or laws, the  
3 insurer shall include in no less than 10-point typeface the  
4 following statement: “THIS POLICY DOES NOT INCLUDE  
5 BUILDING CODE UPGRADE COVERAGE.”

6 (b) In the event that the policy does include code upgrade  
7 coverage, it shall either:

8 (1) State this on the declaration page, and denote any applicable  
9 limits.

10 (2) State this on a separate disclosure form attached to the  
11 declarations page, if the separate disclosure form meets the  
12 following standards:

13 (A) It is printed in not less than 10-point typeface.

14 (B) It denotes any applicable limits on the amount of coverage.

15 (C) It denotes restrictions, if any, on coverage for compliance  
16 with applicable building codes which take effect after the date of  
17 loss but prior to the issuance of required building permits.

18 (c) *An insurer that fails to provide the notice required by*  
19 *paragraph (1) of subdivision (a) is responsible for the accuracy of*  
20 *the replacement cost of the structure indicated in the limits of*  
21 *liability. Notwithstanding these limits, an insurer that fails to*  
22 *provide this notice shall be liable for the full replacement cost of*  
23 *the structure in the event of a loss that exceeds the limits*  
24 *established by the insurer.*

25 SEC. 3. Chapter 12 (commencing with Section 10109) is  
26 added to Part 1 of Division 2 of the Insurance Code, to read:

27  
28 CHAPTER 12. RIGHTS OF RESIDENTIAL PROPERTY INSURANCE  
29 POLICYHOLDERS  
30

31 10109. An insured under a policy of residential property  
32 insurance, as defined in Section 10104, may, within 30 days of the  
33 effective date of the policy, or any renewal thereof, increase or  
34 decrease the limits of liability with respect to any residence  
35 covered under the policy based upon reasonable and supportable  
36 estimates of value or replacement cost.



1		_____
2	CORRECTIONS	
3	Text — Pages 5 and 7.	
4		_____
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